

OFFICE OF CONSERVATION
STATE OF LOUISIANA

IN RE: GROUND WATER
MANAGEMENT COMMISSION

REPORT OF MEETING
HELD AT
BATON ROUGE, LOUISIANA
AUGUST 7, 2001

OFFICE OF CONSERVATION
STATE OF LOUISIANA

IN RE:
GROUND WATER
MANAGEMENT COMMISSION

Report of the public hearing held by the Ground
Water Management Commission, State of Louisiana, on
August 7, 2001, in Baton Rouge, Louisiana.

COMMISSION MEMBERS IN ATTENDANCE:

Karen Gautreaux, Chairman, Governor's Special Assistant
for Environmental Affairs
Philip Asprodites, Commissioner of Conservation
Zahir "Bo" Bolourchi, DOTD
George Cardwell, Capital Area Ground Water Commission
William "Bill" Cefalu, Police Jury Association
Richard Durrett, Sparta Groundwater Conservation
Peggy Gantt, Louisiana Municipal Association
Dale Givens, Secretary, DEQ
Jimmy Guidry, Secretary, DHH
Fulbert Leon Namwamba, Geologist, Professor
Brad Spicer, Agriculture & Forestry
Linda Zaunbrecher, Farm Bureau Member

ALSO PRESENT:

REPRESENTING OFFICE OF CONSERVATION:

Mr. Anthony Duplechin

Mr. Michael Killeen

ADVISORY PANEL MEMBERS:

Michael Wascom

Steve Levine

Jim Marchand

Brad Hanson

AGENDA

- I. Ground Water Management Commission Member Introductions
- II. Discussion of the Draft Scope of Services for the Development of the Statewide Comprehensive Water Management System - Anthony Duplechin, Office of Conservation
- III. Discussion of the Draft Emergency Rules for the Hearing Procedure for the Designation of a Critical Ground Water Area - Anthony Duplechin
- IV. Ground Water Management Advisory Task Force Comments
- V. New Business
- VI. Public Comments
- VII. Schedule for Next Meeting - Karen Gautreaux
- VIII. Adjourn

GROUND WATER MANAGEMENT COMMISSION

AUGUST 7, 2001

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COMMISSIONER GAUTREAUX:

Let's just start. It's five after 2:00, and my name is Karen Gautreaux. Welcome to the first Louisiana Ground Water Management Commission meeting. We've just come from what I thought was a very positive day and a half orientation for the Management Commission and the Advisory Task Force, and we're here to do our first day of business.

I think -- and we won't do this every time, we'll just do roll call in the future, but what I'd like to do, is there anyone that was not at the orientation? Oh, Mr. Durrett. Well, we will for Mr. Durrett --

COMMISSIONER DURRETT:

You told me I didn't need to come.

COMMISSIONER GAUTREAUX:

Mr. Durrett already knows everything we're talking about, so I said he could afford to join us for the Commission meeting. No, actually, like many people that were unable to join us for the conference, there were things that had been scheduled previously, and I think you went to LMA, Mr. Durrett, so I'm glad you can join us today. But what we will do in the fore of introductions is just go around this first time, and if we can repeat what we did at the orientation meeting, just a little bit about our areas of interest related to water.

I'm Karen Gautreaux, the Governor's Special Assistant for Environmental Affairs. I'm the Governor's Designee and will serve as chair of the Commission. And as I mentioned before the Governor's Water Policy Task Force, my primary I guess areas of participation in water resources was related to surface waters such as Coastal Wetlands Restoration, a national estuary program, et cetera, et cetera. So I'm very pleased to be with you here today. And with that, I'll turn it over, Dale, why don't we start with you?

COMMISSIONER GIVENS:

Dale Givens, Secretary of DEQ.

COMMISSIONER NAMWAMBA:

Ful Namwamba. I'm a professor at Southern University, graduate of water resources, Iowa State University; geology, University of Utah; GIS and more such things, University of New York at Buffalo. I'm with the Center for Energy and Environmental Studies at Southern University, and I also manage the Institute of Environmental Issues and Policy Analysis at Southern University. I teach water resources and hydrology at both graduate and undergraduate level. I worked with Louisiana DEQ, and also I worked with Iowa DNR.

COMMISSIONER GAUTREAUX:

Thank you. Mr. Durrett?

COMMISSIONER DURRETT:

Richard Durrett. I'm the parish administrator and

parish engineer for the Lincoln Parish Police Jury, and chairman of the Sparta Aquifer Commission.

COMMISSIONER GUIDRY:

Jimmy Guidry. I'm the designee for the Secretary of the Department of Health and Hospitals, David Hood. I'm also the medical director for DHH and the state health officer. And, of course, my interests are in making sure that we have water for the health of our citizens.

COMMISSIONER BOLOURCHI:

I'm Bo Bolourchi, the designee of the Secretary of the Department of Transportation and Development.

COMMISSIONER GANTT:

I'm Peggy Gantt, representing the Louisiana Municipal Association, and I'm also the mayor of Arcadia. We're in the aquifer.

COMMISSIONER ZAUNBRECHER:

I'm Linda Zaunbrecher. I'm representing Louisiana Farm Bureau. I produce rice in southwest Louisiana.

COMMISSIONER CARDWELL:

I'm George Cardwell, retired groundwater geologist. I formerly worked for the US Geological Survey, and was former director of the Capital Area Ground Water Commission, and I represent the Capital Area Ground Water Commission.

COMMISSIONER SPICER:

I'm Brad Spicer, Assistant Commissioner for the Office of Soil and Water Conservation in the Department of Agriculture and Forestry. Our primary interest is in water management for agriculture and water conservation, and I'm representing Commissioner Bob Odom on this.

COMMISSIONER ASPRODITES:

I'm Philip Asprodites, Louisiana Commissioner of Conservation, and also my office is the Staff to the Commission. Just one quick note for the Commissioners to help our court reporter today. If you could simply state your name again each time you make a statement or speak today, it would help her to learn everyone's names and have a more accurate transcript.

COMMISSIONER GAUTREAUX:

Thank you. And also when the public and Task Force comment, opportunities come up, if you can come to this mike and again introduce yourselves before you make the remark. Now, we won't do this at every Commission meeting either, but because there are some new members that are involved on the Advisory Task Force level, let's -- and interested public that are showing up, let's go around the room and just introduce ourselves really quickly since we have -- we don't have to put this on the record, but hopefully you did sign in and put your E-mail address if you're interested on being on the mailing list, if you're not involved with the Commission and Advisory Task Force.

(OFF THE RECORD)

COMMISSIONER GAUTREAUX:

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4 The first item on our agenda is the discussion of
5 the Draft Scope of Services for the Development of a
6 Statewide Comprehensive Water Management System. We
7 are not going to take action today other than to
8 receive your comments. So with that, Tony, would you
9 like to -- Tony Duplechin with the Office of
10 Conservation, would you like to --

11 COMMISSIONER ASPRODITES:

12 Tony is making the changes to the --

13 COMMISSIONER GAUTREAUX:

14 Oh, okay.

15 COMMISSIONER ASPRODITES:

16 He said it would just take five minutes.

17 COMMISSIONER GAUTREAUX:

18 All right. Well, I guess a number of you have
19 received the Scope of Services, and hopefully have had
20 time to review it. Let's just -- maybe I can start the
21 discussion and Tony can join us. As many of you know,
22 during the legislative session there was a debate about
23 how to pull together the plan that is required in the
24 Act in the amount of time that we had, and there was
25 also the issue of staffing up, how do we want to handle
26 this in the way that gets the job done with the minimum
27 bureaucracy building, I guess, that we could do.

28 With that in mind, most of the -- we agreed as all
29 the people that were working on the legislation thought
30 it would be a good idea to have the capability of
hiring a consultant to assist with this task. As a
result, for our consideration today, the Office of
Conservation, along with input from a few people, have
drawn this draft up for your comments. Since Tony has
joined us, I'll let him present it. But that's the
purpose of the scope, and we welcome your comments.
Philip, did you want to add anything before --

COMMISSIONER ASPRODITES:

Any comments about it? Well, actually, Tony is
here, so you'll get my scope -- I guess the real
question is, did everyone -- you've obviously received
this now. The hope is that it would have been sent out
sooner, but obviously there was some delay just to get
everybody's name as to who the parties were on the
Commission, and once that happened, we sent out the
scope. The point was, as I mentioned yesterday in the
meeting, there are a couple of things that I think the
Commission needs to address now, and one is the Scope
of Services for the consultant to help us work forward
to get the policy put together since we don't really
have that much time, when you think about the job they
have and the scope of the work that we're going to
assign to them. So if anyone has any comments, or
would you like Tony to go through it? What's the best
way? Do you already have some thoughts? Go ahead.

COMMISSIONER DURRETT:

As you know, we're in the process of having a
study done of the Sparta -- Richard Durrett, Sparta
Aquifer. We're in the process of having a study done

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4 of the Sparta Aquifer. I don't know -- what's the
5 timing? What do you envision as the timing of this --
6 the awarding of this?

7 COMMISSIONER ASPRODITES:

8 This would have to be -- oh, the awarding of it?
9 Hopefully in the next couple of months, at least I
10 hope.

11 COMMISSIONER DURRETT:

12 I think I would like to see us include the
13 coordination of this consultant with the one that we
14 have working and not duplicate the same --

15 COMMISSIONER ASPRODITES:

16 Right. In fact, I spoke to the senator from up
17 there --

18 COMMISSIONER DURRETT:

19 Bill Jones.

20 COMMISSIONER GAUTREAUX:

21 Senator Jones.

22 COMMISSIONER ASPRODITES:

23 Yes, Senator Jones. And he mentioned that you
24 guys were going to have a meeting with your consultant.
25 Because he had mentioned that they had discussed that
26 perhaps it would take another year for them to complete
27 their study, and the hope that he and I discussed was
28 that that could be speeded up so they could have,
29 whoever the new consultants are, they would have all
30 this data and these results to work from and not have
two people working simultaneously. It doesn't make any
sense.

COMMISSIONER DURRETT:

I think they ought to have some information before
-- they're due to complete the study in February, but
they'll have some valuable data, I think, starting in
October. So by the time these start, we should be able
to share that information and not duplicate that
effort.

COMMISSIONER ASPRODITES:

Good. Tony, why don't we take a minute and just
go through the Scope?

MR. DUPLÉCHIN:

Yes, thank you. My name is Anthony Duplechin.
I'm going to be serving as chief of the staff for the
Ground Water Management Commission. I'm sure Karen has
already gone over all the legislative parts of why
we're doing this, so I'll skip over that and just get
down to what's included in the Scope of Services. The
purpose -- okay, let's skip back a little bit. As
Commissioner Asprodites stated yesterday during the
orientation, the Office of Conservation intends to keep
the number of additional staff that we hire to a
minimum and still develop the comprehensive Ground
Water Management Plan, and to do this, as has already
been stated, we're going to contract out the work.

The purpose of the plan is to assess current water
resources of the state and establish considerations,
guidelines and procedures for the effective management

of state's water resources in order to sustain the availability of water for all present and future uses. The plan shall include but not be limited to the following: an evaluation of the State's ground water resources including current and projected demands on the aquifers of the state; a determination of data necessary to manage the state's water resources; a definition of sustainability of each aquifer which can be used to determine and predict critical ground water areas; development of alternatives to ground water use; an evaluation of the state's surface water resources available for development; an evaluation of use of surface water; recycling of used or treated waters; identification and development of surface water projects to meet current and future demands; evaluation of incentives for conservation of water resources; an evaluation of the use of alternative technologies; development of an education and conservation program; development of a program to provide mitigation for loss of ground water resources, and incentives to transfer use from ground water sources to surface sources or alternative sources where such transfer will not harm the surface water sources; and the designation of the appropriate state entity structure to manage and protect the state's water resources, including the cost of administration and implementation.

Now, we've set up in the Scope of Services that the plan be divided into two parts. Part one will identify the state's water resources and assess their current use and general scientific information available. Part two will establish considerations, guidelines and procedures for the effective management of the state's water resources and data collection. We've listed people with the Office of Conservation, US Geological Survey, Louisiana Geological Survey, and Department of Transportation and Development as sources of additional information that the contractor can use.

In designating critical ground water areas, recommendations will consist of but not be limited to the following: water quantity and the recommendations of what water levels should trigger a critical designation; water quality, including identification of aquifers where quality is an issue; and sustainable yield of the aquifer and procedures to determine the hydrologic boundaries of the critical areas.

Requirements for the preparation of report on critical ground water area determinations are given in the Scope of Services. Procedures for determination of available surface water use as alternatives to ground water use is spelled out as well. Emergency use and contingency plans for the regulated use of current water supplies or the use of alternative water supplies shall be addressed in the plan also, as well as identification of any possible incentives for conservation of water and a review of alternative technologies.

Once the Commission has approved this Scope of Services, then we hope to go to our Contracts and Grants Division here in the Department of Natural Resources and they'll begin the RFP process. It is hoped that the contract will be awarded by the end of next month, September. Since Act 446 requires that the plan be submitted to appropriate legislative committees prior to January of 2003, we'd like to have the final plan in hand by October of next year. The Commission Staff will provide the contractor with current determinations and/or procedural changes that may influence the plan, and the contractor shall be required to provide periodic briefings as requested by the Commission.

COMMISSIONER GAUTREAUX:

Thank you, Tony. One comment I'd like to make just in keeping with Mr. Durrett's comment is to add someone from the Sparta, and I was going to also mention that we have an ongoing Chicot characterization, but, Brad, you're listed as the contact for the LGS, and you are very well aware of what's going in Chicot, so I assume we can use you for that one. Do you have a preference?

COMMISSIONER SPICER:

Dudley Hixon.

COMMISSIONER GAUTREAUX:

Dudley Hixon?

COMMISSIONER SPICER:

With Meyer, Meyer, LaCroix & Hixon.

COMMISSIONER GAUTREAUX:

And we'll get the contact information from you for the group. Thank you. Anyone on the Commission have a comment about the Scope of Services?

COMMISSIONER SPICER:

Brad Spicer with the Department of Agriculture and Forestry. I didn't have an opportunity to read the scope. Is there anything in there to address the issue of aquifers that may -- or areas within the state that may be on the borderline? How do we approach these areas to keep them from getting into critical situations?

MR. DUPLÉCHIN:

One of the purposes of this will be to address areas that, as you say, are borderline, to keep aquifers from becoming critical.

COMMISSIONER SPICER:

Thank you.

COMMISSIONER NAMWAMBA:

I just wanted to inquire on the list, Sources of Information, who is designated to deal with the issues of water quality?

COMMISSIONER GAUTREAUX:

Well, that's a good question. Typically we have been concerned about quantity, but in the sense that if you have a million gallons that are bad, that can't be considered a good fresh water source.

COMMISSIONER NAMWAMBA:

That's not sustainable?

COMMISSIONER GAUTREAUX:

Right. Our Secretary of DEQ is obviously the state official that is -- and all of us have duties related to water quality, but the programs rest in Dale's agency. So should we add Dale as a contact for -- or someone, the Secretary?

COMMISSIONER GIVENS:

Sure.

COMMISSIONER GAUTREAUX:

Thank you.

COMMISSIONER ASPRODITES:

As long as you keep this under 49, that should be okay.

COMMISSIONER GAUTREAUX:

Does anybody else have a comment about the scope on the Commission?

COMMISSIONER CARDWELL:

What type of contractors are we looking for -- George Cardwell -- to, a formal contract like this? Former ground water consultants or planners, or what type of people would you be looking to?

COMMISSIONER ASPRODITES:

Tony, what kind of people are you looking for?

MR. DUPLÉCHIN:

Someone that is knowledgeable in ground water, someone that has experience in ground water management.

COMMISSIONER GAUTREAUX:

And I would think also, when you get to this level of consulting that typically you're looking at an organization that has access. If they don't have all the expertise, then they typically subcontract out and put a package together.

COMMISSIONER CARDWELL:

You're probably looking at national consultants then?

COMMISSIONER GAUTREAUX:

Yes, could very well be. But we'll -- I assume they'll be on the state approved list for consultants of this type.

COMMISSIONER ASPRODITES:

I'm sure there are several people out there that are waiting to see this RFP and have the chance to offer a bid.

COMMISSIONER CARDWELL:

And the proposed end date for the study?

COMMISSIONER GAUTREAUX:

We had asked, I think you mentioned, Tony, that we were shooting to have everything pulled together by October of --

MR. DUPLÉCHIN:

We'd like to have it by October of 2002.

COMMISSIONER ASPRODITES:

Especially if the Commission has to have a proposed plan by January of 2003 for the legislature,

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4 so that's why they're trying to give us some lead time,
5 but obviously, it's going to be -- this is all going to
6 be a work in progress. And although we're asking the
7 Commission to move forward in some areas to get things
8 moving, things may have to change as we go forward.
9 But we don't have a lot of time to wait.

10 MR. DUPLECHIN:

11 And the Staff, I'm sure the Commission as well,
12 would plan on working with the consultant on a weekly,
13 if necessary, basis to ensure that these time frames
14 are met.

15 COMMISSIONER GIVENS:

16 Karen?

17 COMMISSIONER GAUTREAUX:

18 Yes, Dale?

19 COMMISSIONER GIVENS:

20 Dale Givens. Have you thought about what type of
21 contract you're going to do, the fixed months, or what
22 --

23 COMMISSIONER ASPRODITES:

24 All I can say is that there's a proposal for how
25 much money has been allocated for this contract for the
26 first year. I don't know if that's public or not.
27 It's simply put out for a fixed price for the -- at
28 least for the first year.

29 COMMISSIONER GIVENS:

30 So you didn't anticipate going out for a one-year
contract with an extension on it?

COMMISSIONER ASPRODITES:

I never really thought that far, but that's how it
was envisioned, that the first year it would be "X"
dollars, and obviously it would take more than a year.
Now, let's use your experience. Is it better to go
forward and just bid on the whole thing for however
long it takes to get it down within the time frame? It
seems to make more sense.

COMMISSIONER GIVENS:

Well, I would think that you could only put in the
contract, in the RFP, the amount of which you had
dollars to pay for.

COMMISSIONER GAUTREAUX:

Well, I think -- if I recall, the appropriation
was split over a two-year period. So given that, I was
--

COMMISSIONER GIVENS:

Well, if you have a two-year appropriation that
continues, then you could put up to two year's worth.

COMMISSIONER GAUTREAUX:

It was split "X" dollars, and I guess I'll have to
defer to the people who are more familiar with that
part of the process. I think there was "X" amount when
the fiscal note was derived, but I would imagine our
appropriation is only for one year. So we probably
have to go for a one-year with a one-year extension
unless you have --

COMMISSIONER GIVENS:

No. My concern is simply that we have a very ambitious undertaking and a short time frame to do it in, and since I haven't heard anything about costs or how we were going to get the money to pay for it, I would be embarrassed to go forward and recommend a contractor or anything if we didn't have the means to pay for what we're asking to do.

COMMISSIONER GAUTREAUX:

Right. And that's a very good question. That lends itself to another question, are we are going to have to say Part 1 is year one, and then bring in Part 2 as year two funding or half of --

COMMISSIONER ASPRODITES:

Wouldn't we really want --

COMMISSIONER GAUTREAUX:

We need both.

COMMISSIONER ASPRODITES:

Wouldn't we really want a consultant to bid on the whole contract? Because it doesn't make sense to try to divide it that way.

COMMISSIONER GAUTREAUX:

No.

COMMISSIONER ASPRODITES:

If the -- whoever the proper parties are to address that fiscal side of it, address it from that end, whether it's legislature, DOA, what have you.

COMMISSIONER GAUTREAUX:

Those are -- that's a very valid question that we'll have to have some follow-up conversations on. I really thank Tony and Staff. They've put something together very quickly, and I'm appreciative of your questions. Now we can go back and address those specifics.

COMMISSIONER ASPRODITES:

Any other comments from the Staff within what's in the Scope?

COMMISSIONER SPICER:

Yes. I'd like to recommend to Tony that they use the NRCS in my office as a contact for surface water, certain aspect of surface water that you'll be looking at.

COMMISSIONER ASPRODITES:

Any other comments regarding the Scope?

(No response.)

COMMISSIONER GAUTREAUX:

We were just talking, we didn't plan on asking, and I don't know if there would be a level of comfort approving given the funding amounts we appropriately designated. Is there -- would there be a comfort level so that we can move forward giving those changes to approving the Scope today? That would just be simply a line about the funding requirements. Would the Commission members be comfortable with that, or do you need more time to look at it?

COMMISSIONER GUIDRY:

Jimmy Guidry, Department of Health. I guess my

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4 concern is that we've just had a day and a half of
5 looking at what the important issues are and really
6 haven't had a chance to look at what we came up with
7 and how it matches with this. I think it's close. I
8 see a lot of good things in it, but I certainly think
9 we need a little more review, knowing that time is a
10 factor. Or if the people that are going to draw up the
11 RFP can pay attention to the things that we thought
12 were important, that would make me feel a little more
13 comfortable.

14 COMMISSIONER GAUTREAUX:

15 I guess in that case, then, this will feed into
16 the emergency rule discussion in terms of a time
17 period, but would a two-week review be -- in terms of
18 getting the comments back in, and depending on how we
19 discuss the approval of the emergency rules, we could
20 perhaps fold that into a meeting.

21 COMMISSIONER ASPRODITES:

22 How difficult would it be to get the Commission
23 together for these meetings? Most of us are in Baton
24 Rouge, but others have to travel some distance to come
25 here.

26 COMMISSIONER DURRETT:

27 Two of us have to come four hours.

28 COMMISSIONER ASPRODITES:

29 You could always do it if you were comfortable
30 with a phone conference.

COMMISSIONER DURRETT:

I don't have any problem. I don't have any
problem with this as we've talked about it.

COMMISSIONER GUIDRY:

Again, I'd feel comfortable with voting with the
stipulation that the people review what was said at our
day and a half meeting and make sure that's
incorporated in the RFP. I'm comfortable with what is
said in the scope. I mean, it covers -- it's so
general it covers just about everything.

COMMISSIONER GAUTREAUX:

Right. And we'll also have an opportunity to look
at the proposals that are --

COMMISSIONER ZAUNBRECHER:

Final document.

COMMISSIONER GAUTREAUX:

-- right, sent in as well.

COMMISSIONER DURRETT:

Can we approve it subject to you E-mailing it to
each of us to kind of --

COMMISSIONER GAUTREAUX:

I don't think we can necessarily do E-mail or
phone votes. I think we can agree to approve it
subject to minor changes that you may have as a -- the
discussion, and that we send out to the Commission
members, and if it looks like they're too substantive
that they would really change the scope, I think that
would be a problem. Mike, did you have a question or
comment?

Mike was just -- I'll restate it. Mike was going to remind us the open meeting law precludes fax or phone votes. Thank you, Mike.

COMMISSIONER CARDWELL:

I'd like to mention that this covers a small part of what we discussed the last two days. It mainly address the resource itself. A lot of what we discussed would not be included in this, as I understand it.

COMMISSIONER GAUTREAUX:

Mr. Cardwell was just saying that some of this material may not include some of the discussion that we had at the meeting and orientation, and that's true. Some of it may not be explicitly. Hopefully, it's related in some way, or we've had a far afield discussion.

COMMISSIONER CARDWELL:

As stated it here it mainly refers to the resource itself, defining the resource.

COMMISSIONER ASPRODITES:

It's the Commission that is then supposed to take that information and act on it. You're not going to have your decisions made by the consultants. They can just supply the information to you.

COMMISSIONER NAMWAMBA:

In the one-and-a-half-day meeting, we did a thorough job on ground water, but I noticed that the mandate of the Commission also refers to surface water which we did not discuss very exhaustively. So it would help to just take what we did for the one and a half days and look at issues of surface water, get them together, and then that way we are in a position to make an objective response to the Scope. So the surface water issues, we did not discuss them extensively in the one-and-a-half-day meeting.

COMMISSIONER GAUTREAUX:

Right. Dale, would you feel comfortable?

COMMISSIONER GIVENS:

In doing?

COMMISSIONER GAUTREAUX:

Oh, I'm sorry. In going forward approving the RFP subject to filling in the detail in terms of funding and making the changes, and if there are some minor changes that the Commission members think we need to flush out, sharing those minor changes, but approving it today, or do you think we need a little more time?

COMMISSIONER GIVENS:

Karen, I think the concept is fine. I think that it's very shallow right now with respect to what you would want to send out for binding -- an RFP that you're bound by. As it stands right now, I couldn't recommend doing that.

COMMISSIONER GAUTREAUX:

All right. Then we will --

COMMISSIONER ASPRODITES:

Brad suggested that we perhaps agree to come back

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4 at a certain date in the future over the next 10 days,
5 and you'll have a chance to look at it and any changes
6 would have been sent out, and be prepared at that point
7 to move forward. Because obviously this is the first
8 meeting to get the Commission together, and the point
9 was to get the Staff to get something before you so you
10 have something to work from, because it could take a
11 long time if we all tried to draft it sitting around
12 the table like this. So I think it's a good idea to
13 wait a little time, but not wait too long so that we
14 can move forward.

15 COMMISSIONER GAUTREAUX:

16 All right. And we'll -- if that's agreeable, we
17 won't do this too often, Commission members, but we'll
18 reconvene fairly shortly. And, audience, Advisory Task
19 Force Members and public, if you have some comments,
20 we'll take those a little later in the meeting, so
21 you'll have that opportunity.

22 COMMISSIONER ZAUNBRECHER:

23 Will you set -- excuse me, Linda Zaunbrecher.
24 Will you set that meeting date today?

25 COMMISSIONER GAUTREAUX:

26 Yes, we will set that meeting date today. Thank
27 you.

28 COMMISSIONER SPICER:

29 Karen, Brad Spicer. I recommend that anyone that
30 has comments, they ought to get those to you several
days in advance of the meeting so that you have -- the
Staff has an opportunity to incorporate them in the
document and get them E-mailed out or whatever.

COMMISSIONER GAUTREAUX:

Thank you. Let's move on to the draft -- the
discussion of the "Draft Emergency Rules for the
Hearing Procedure for the Designation of a Critical
Ground Water Area." Philip, did you want to say
anything before Tony starts?

COMMISSIONER ASPRODITES:

I'm going to let Tony --

COMMISSIONER GAUTREAUX:

Again, we're not taking action on these emergency
rules today, but we did want to get your input on them.
And this is the application process. When a person or
entity wants to request the declaration of an area as a
critical ground water area, this is the proposed
process. With that, Tony, I'll turn it over to you.

MR. DUPLÉCHIN:

What I'm passing out is another revision to the
Draft Rules of Procedure that was in your binder that
you received yesterday. We had some discussions with
our legal staff here at DNR, and they felt that there
were a few areas that we should address and make a few
minor changes, and I'll go over those changes in my
presentation.

Act 446 of the 2001 Legislature also authorized
Louisiana Ground Water Management Commission to hold
public hearings during the course of making critical

ground water area determinations. To this end the Office of Conservation Staff has drafted Emergency Rules of Procedure for hearings to be held by the Commissioner -- by the Commission. The draft rules define certain words used in the rules; specify the applicability of the rules; outline procedures for making application to the Commission for critical ground water determination, as well as criteria to be used in making such a determination; a time frame for notification to the applicant of the completeness of the application; and record keeping requirements.

The draft rules go on to specify public notice requirements for hearings, rules of conduct for the hearings, and the decision of the Commission on the application. As I said, the copy was included in your binder at orientation yesterday, and we made some changes which are shaded on your sheets there.

The first change we made was just to expand the definition of beneficial purpose or beneficial use. The second change was under "Application Procedure: Who May Apply" on page 2. We struck the last phrase, "to consider such matter" and changed it to "relative to such aquifer." We added a section called Notice of Intent, and it reads, "A Notice of Intent to file an application will be published" -- it should say, "in the official parish journal." "Such notice must include the applicant's name, address, and telephone number, a brief description of the subject matter of the application, a map which shall be sufficiently clear to allow local residents to readily identify the proposed area, and a statement that comments and/or objections may be sent to the following address," which is the Commissioner of Conservation.

A third change was made on No. 7 under application in which we took out the requirements for the notice of application and put it as I had previously stated, and left in the requirement that the published page from the official parish journal be sent in with the notice -- with the application for the determination.

One minor change we made is anywhere 'state journal' or 'parish journal' was written, typed in, we put 'official' in front of that. Under 'Notice of Hearing,' third line, it says 'Official Materials' it should -- I'm sorry, that's right. Maybe I should put my glasses on.

Also added "location of where materials available for public inspection would be." Under Rules of Conduct, we added that the chairman of the Commission or designee shall serve as the presiding officer and shall have the discretion to establish reasonable time limits upon time allowed for statements. We struck the word 'staff' in the fourth sentence, as well as on the first paragraph of that page where it said, "application filed or prepared by Staff." The reason we did that was some people might get the confusion that they can ask the Office of Conservation Staff to

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4 prepare the application for them.

5 Added since that all interested persons shall be
6 allowed to appear and present testimony either in
7 person or by other representatives. Added that all
8 hearings shall be recorded verbatim, and that copies of
9 the transcript shall be available for public inspection
10 and purchase, and the testimony and all evidence
11 received shall be made part of the administrative
12 record.

13 The last change we made was to strike the sentence
14 saying "any order of the Commission shall be subject to
15 judicial review by a court of competent jurisdiction."
16 Our legal staff said that that really fell under the
17 statute and not under these emergency rules.
18 COMMISSIONER GAUTREAUX:

19 Thank you, Tony. Now, can we -- would you mind
20 leading us through an explanation of how someone would
21 go through the process?

22 MR. DUPLÉCHIN:

23 Okay. When someone decides that they want an area
24 declared as a critical ground water area, they would
25 publish in the parish journal of the parish where the
26 area is located a notice of intent to file such
27 application with the Office of -- or with the
28 Commission, rather. This would have to be done -- I
29 left something out. Okay, this would have to be done
30 at least 30 days prior to them filing the application
for the determination. Then they would file the
application, which would include the seven items that
are stated under application -- do you want me to go
through those, or just --
COMMISSIONER GAUTREAUX:

Yes, let's go ahead and -- I mean, some of them
are pretty self-explanatory.

MR. DUPLÉCHIN:

The application would have to include the name,
address, telephone number and signature of the
applicant, an identification of that applicant's
interest which is or may be affected by the subject
matter of the application. That was put in to more
readily identify any frivolous applications that we
might get in. Identification of the source of ground
water aquifer to which the application applies. An
identification of the affected area including its
location, section, township, range and parish, and the
U.S. Geological survey map or Louisiana parish map
outlining the perimeter of the area. A statement of
facts and supporting evidence which supports the
request of the applicant and addresses how a lack of
action on the request might affect ground water
resources in the area subject to the request.

It has to include the name and addresses of owners
of all wells that would be required to be registered
with the Louisiana Department of Transportation and
Development within the subject area of the request and
the owners within one-quarter mile immediately outside

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4 that area. As I said before, it has to have the
5 published page from the official parish journal showing
6 the notice of intent to apply for the application.

7 COMMISSIONER DURRETT:

8 May I ask a question? Number six, would you go
9 back? Names and addresses of all the wells? Is that
10 the wells that DOTD has --

11 MR. DUPLUCHIN:

12 All the wells that have been registered with DOTD.

13 COMMISSIONER DURRETT:

14 So if they're not registered with DOTD you don't
15 have to worry?

16 MR. DUPLUCHIN:

17 Right.

18 COMMISSIONER DURRETT:

19 One other question. If you have an area like we
20 do that covers 16 parishes, does that mean we've got to
21 advertise in the official journal of all 16 parishes?

22 MR. DUPLUCHIN:

23 Yes, sir.

24 COMMISSIONER CARDWELL:

25 George Cardwell. If a public body wanted to go
26 through the same procedure, would they have to follow
27 the same procedure?

28 COMMISSIONER GAUTREAUX:

29 I think that was the intent.

30 COMMISSIONER ASPRODITES:

The intent was, when this began the idea was that
the Commission would move forward if there was a
critical ground water area and take action. The reason
for these Rules of Procedure is to allow this action to
begin. But it was expanded to allow an interested
party, an affected party to come forward and petition
the Commission as well, that they are to hold a hearing
to consider designating an area as a critical ground
water area. And if the Commission does it on its own,
again, they would simply publish the notice of intent
and publish the application in the state journal.

It also allows the Commission to move forward.
For instance, I understood that the intent was to move
forward and go up to Ruston or north Louisiana and hold
-- begin to hold hearings on this matter. Not just to
go up there and hold hearings, but once you have your
Rules of Procedure in place then you could begin to
take evidence. And rather than wait for your staff to
prepare that type of evidence, there are people that
are already out there that have done this work that are
prepared, as I understand it from you and others, are
prepared to come forward and request that hearings be
held to consider a critical ground water area, whether
it's several parishes, or hopefully specific critical
areas which are smaller than 16 parishes.

COMMISSIONER DURRETT:

Just to bring you up to date, the Sparta
Commission a couple of weeks ago voted unanimously to
request this Commission to consider them as a critical

ground water area. Now, we're waiting for these regulations so we'll know what the next step is. We're ready when we get this adopted.

COMMISSIONER BOLOURCHI:

I have a question here. Bo Bolourchi, DOTD. Item No. 6, going back to the water wells to be registered within a quarter of a mile. Tony, would you take me through that again? Tell me exactly what is it that needs to be done and who is going to be doing it.

MR. DUPLECHIN:

Okay. This is -- as it says, the names and addresses of the owners of all wells that would be required to be registered with your office.

COMMISSIONER BOLOURCHI:

Are we talking about existing registered wells or are we talking about unregistered wells that we wish to get more information on those? What are we talking about? Registered wells or unregistered wells?

MR. DUPLECHIN:

Registered wells. If there --

COMMISSIONER BOLOURCHI:

If they're registered --

MR. DUPLECHIN:

It says "would be required." That's under the assumption that everyone follows the law, and if they have a well that is supposed to be registered with DOTD, it is registered.

COMMISSIONER BOLOURCHI:

The term "would be required to be registered" is confusing to me. I think if that's what you want, we should say names and addresses of owners -- really, you're looking for a list.

MR. DUPLECHIN:

That all is required, right. We could change it to say names and addresses of owners of all wells required to be registered with LA DOTD.

COMMISSIONER BOLOURCHI:

It all depends on what we're trying to get.

MR. DUPLECHIN:

That are registered.

COMMISSIONER BOLOURCHI:

If we're talking about a registered well, then we need to ask for a list of registered wells that refers to the wells already registered. Now, if you're talking about registered wells plus unregistered wells that you wish -- perhaps you wish to get, then that's another subject matter. So what is it that we're trying to get?

COMMISSIONER SPICER:

Karen, I think we're trying to get both. I think the statement is --

MR. DUPLECHIN:

Like all the wells that are there.

COMMISSIONER BOLOURCHI:

So may I suggest that in that case it would be name and addresses, and are we -- name and addresses of

all water wells, and forget about saying "would be required to be registered." Names and addresses of owners of all water wells within the area.

MR. DUPLECHIN:

In the area.

COMMISSIONER BOLOURCHI:

That area.

COMMISSIONER GAUTREAUX:

To eliminate that --

MR. DUPLECHIN:

We can change it to that.

COMMISSIONER GUIDRY:

Well, is it doable?

COMMISSIONER BOLOURCHI:

I think Dr. Guidry is asking me if it's doable. Anything is doable. It's just a matter of economics. Someone going to have to go there and look for those wells.

COMMISSIONER GAUTREAUX:

One thing we did discuss, obviously, in preliminary discussions since this is being put together, has been put together very recently and these are obviously early discussions, is for the declaration of a critical area, you probably, even though the unregistered wells are very important, this is a question, is it different than, say, you've declared an area a critical ground water area, then you have an applicant coming in when you need to know the effect of those actions of the permit applicant, do you try to track down the unregistered wells through the permit application process as opposed to the critical ground water area designation? And it is a question. I mean, we discussed this. Do you want both for the critical ground water area? Even though you need it in making decisions, the unregistered wells, do you need it for that part, or do you need it for a permit applicant coming in after an area has been declared critical?

COMMISSIONER BOLOURCHI:

Going back to some of the discussion, previous discussion, that was basically for the critical area.

COMMISSIONER DURRETT:

Are we talking about only large capacity wells, though, rather than every well?

COMMISSIONER BOLOURCHI:

Well, I'm not the one that's going to be handling those applications. So I think, Tony, you need to be telling us. What is it that you need?

COMMISSIONER ASPRODITES:

What is your point? What would you like No. 6 to say? Because this is just a draft. It's open for any comments. How would you write that?

COMMISSIONER BOLOURCHI:

I think the term "would be required to be registered," that's confusing. I think we should take that out.

COMMISSIONER ASPRODITES:

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4 You just want to say registered --

5 MR. DUPLECHIN:

6 Why don't we change it to say the names and
7 addresses of all water wells within the subject area,
8 area subject to the request?

9 COMMISSIONER BOLOURCHI:

10 That's fine.

11 COMMISSIONER ZAUNBRECHER:

12 And that would -- Linda Zaunbrecher. That would
13 be the requirement of whoever makes the application? I
14 mean, they would have to do that. They would have to
15 gather those.

16 MR. DUPLECHIN:

17 That's right.

18 COMMISSIONER ASPRODITES:

19 But in the real world, I would expect the wells
20 you're --

21 COMMISSIONER ZAUNBRECHER:

22 Yes, I understand that.

23 COMMISSIONER ASPRODITES:

24 -- going to have are going to be the registered
25 wells, unless there's a specific well that they know
26 about that is causing a problem that is not registered.
27 I don't know how else you're going to get beyond that,
28 though.

29 COMMISSIONER BOLOURCHI:

30 Bo Bolourchi. Really, based on all the discussion
that has taken place in the past, going out there
looking for 2" wells, I don't know how that's
pertinent. At best, either we should go with the
registered wells, number one, or if you want large
diameter unregistered wells to be included, then I
don't see any problem.

COMMISSIONER ASPRODITES:

Right.

COMMISSIONER GAUTREAUX:

Mr. Durrett, you had a comment?

COMMISSIONER DURRETT:

Richard Durrett. Back to my original question.
Is it the list that DOTD has of registered wells that
we submit?

COMMISSIONER ASPRODITES:

That's all that this office or that your staff
would know about.

COMMISSIONER BOLOURCHI:

Is that -- Bo Bolourchi. Is that what we're
talking about? Then let's just say it. It would be a
list of registered wells.

COMMISSIONER GAUTREAUX:

Dr. Namwamba had a comment.

COMMISSIONER NAMWAMBA:

Fulbert Namwamba. Yes, in the agenda it's very
clear that we were discussing the Draft Emergency Rules
for the Hearing Procedure for Designation of the
Critical Ground Water Area. I kind of got lost because
when I went through my packet, I saw Rules of Procedure

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4 for Hearings Before the Louisiana Ground Water
5 Management Commission. When I looked through this
6 yesterday, I thought it was for any well. Then I
7 thought maybe the critical ground water area is a
8 subtopic of this.

9 But from what I gather, this whole document is
10 about critical areas. So I'd like to request that when
11 we -- when we title it, let's explicitly title it to be
12 clear that it's addressing the definition of critical
13 areas. If we don't do that, what happens if the
14 critical areas become defined as applicability, as a
15 subtopic? Then when you start doing application, since
16 critical areas are mentioned in applicability, you do
17 not know whether the application procedure is for
18 critical areas or not. So just as a matter of syntax
19 let's make it clear.

20 COMMISSIONER GAUTREAUX:

21 I assume there's no problem just adding at the end
22 of the title Before the Louisiana Ground Water
23 Management Commission for Designation of a Critical
24 Ground Water Area?

25 COMMISSIONER NAMWAMBA:

26 Yes.

27 COMMISSIONER GAUTREAUX:

28 Thank you. Mr. Durrett, did you want to say
29 something else?

30 COMMISSIONER DURRETT:

I think he answered my question.

COMMISSIONER GAUTREAUX:

So it was -- our final decision was that read
"that are registered"; right?

COMMISSIONER DURRETT:

Correct.

COMMISSIONER ZAUNBRECHER:

I have a question, too. Linda Zaunbrecher. With
notice of intent, Tony, you mentioned something about
30 days. Does that need to be said in here?

MR. DUPLECHIN:

Yes. That -- as I said before, this is a draft,
and it's --

COMMISSIONER ZAUNBRECHER:

Where are we going to insert that?

MR. DUPLECHIN:

It will go in -- let me find the copy I'm working
with -- under application. It will say, the
application shall be filed no later than 60 days after
the public --

COMMISSIONER ZAUNBRECHER:

Oh, I see that. Yes.

MR. DUPLECHIN:

No sooner than or no later than -- and no later
than 60 days after the publication of the notice of
intent. The 30 days, we just added in as we were
sitting here. I didn't have a chance to shade in all
the changes to make them stand out.

COMMISSIONER ZAUNBRECHER:

No, that's fine. That's fine. Thank you.

COMMISSIONER BOLOURCHI:

I have another question here, or comment. Bo Bolourchi, DOTD. That would be page 4, the paragraph starting with, "The Commission shall compile and maintain at the Office of Conservation." Madame Chairman, would that be the responsibility of the Commission or the Commissioner's Staff to keep the records?

COMMISSIONER GAUTREAUX:

The Commission of Conservation will maintain -- I mean, the Commissioner of Conservation, as I understand it, the Staff, will maintain the record.

COMMISSIONER BOLOURCHI:

So I submit to you that instead of Commission, it should say to Commissioner's Staff shall compile and maintain at the Office of Conservation, or would that be the Commissioner of Conservation?

COMMISSIONER ASPRODITES:

Well, it's really -- it's the Office of Conservation is technically the Staff to the Commission.

COMMISSIONER BOLOURCHI:

That's correct.

COMMISSIONER ASPRODITES:

It's the Commission that has the duty to act. The Commission has to -- is the party responsible for these files. It's just that they're going to be maintained at the Office of Conservation. So honestly, I think it is the Commission has to compile it, not the Office of Conservation.

COMMISSIONER BOLOURCHI:

As long as we don't have to come up and actually try to maintain --

COMMISSIONER ASPRODITES:

No. It will be maintained at this office for the Commission. I think that's correct.

COMMISSIONER GAUTREAUX:

The DOTD designee on the Commission.

COMMISSIONER BOLOURCHI:

Thank you.

COMMISSIONER GAUTREAUX:

Thank you. Any other comments?

COMMISSIONER NAMWAMBA:

Fulbert Namwamba. Yes. Within the rules that was defined about names of address within a quarter mile, now, I'm being uneasy, which is not just only on this Rules of Procedure, but that we have an interagency GIS committee in Louisiana that has defined cartographic standards, and whatever records we have kept, let them be kept under the standards that have been defined by the State GIS Council. That way, if we come back to these records five years down the line, they are standardized data, and we don't have to guess in what software they were put in or under what projection they were put in.

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4 COMMISSIONER GAUTREAUX:

5 Very good, thank you. Yes, we want to make our
6 data as compatible and usable to as many --

7 COMMISSIONER ASPRODITES:

8 Let me ask, Bo, is that something that an
9 applicant could find? Is that on your records now for
10 all of these wells, GIS designation for the location?

11 COMMISSIONER BOLOURCHI:

12 Yes, we do have the, basically lat/long that could
13 be imported into any GIS system. But the standard that
14 was mentioned by the Professor, I'm not exactly -- I
15 agree with what you're saying, but I'm not -- I don't
16 know exactly what the details of the standards are.

17 COMMISSIONER ASPRODITES:

18 I just want to make sure that we're not putting
19 some burden on the public that they can't meet to come
20 forward and request the Commission to take action. I
21 don't have the answer. I'm just asking the question.
22 Maybe my geologist, chief geologist, can answer that,
23 too.

24 COMMISSIONER BOLOURCHI:

25 I submit that for the purpose of reviewing
26 application, there is ample data on the Internet either
27 in a format of GIS format or otherwise.

28 COMMISSIONER DURRETT:

29 Do you want this application in digital form; is
30 that what you're saying?

COMMISSIONER ASPRODITES:

You're asking me? No.

COMMISSIONER BOLOURCHI:

No. I believe the Professor -- the most important
thing is to have the lat/long?

COMMISSIONER NAMWAMBA:

Yes.

COMMISSIONER BOLOURCHI:

And that data information already has been
determined for each individual registered wells, and
most of the consulting agencies is using it as is and
it's an acceptable format.

COMMISSIONER NAMWAMBA:

I agree.

COMMISSIONER GIVENS:

Question. Dale Givens. Has not the GIS Council
published Metadata Standards and aren't those standards
available on the Internet? If they're not, they can
certainly be put there. But I would suggest that we
look at those Metadata Standards and incorporate that
into what we have. I'm not satisfied with just going
with what's out there on an existing application or the
existing thing that you have now, because I think that
there's more information that is needed, and we ought
to get it up front as a part of the application.

COMMISSIONER BOLOURCHI:

Bo Bolourchi. Dale, could you give us some
example of those additional information?

COMMISSIONER GIVENS:

1 We'll be glad to get that for you, Bo, but,
2 Sharon, I think that your office has it, and certainly
3 the Professor and others that are active that can --
4 I've got staff that can do it. I don't have it, you
5 know, on the top of my head right now. But it is
6 something that all the agencies have gotten together
7 and done, and we need to look at putting our data in
8 the format, as the Professor indicated, that can be
9 used down the road and be compatible with what's going
10 on, and not just going out there and doing it because
11 we had it that way in the past, the existing. Is that
12 the question?

13 COMMISSIONER NAMWAMBA:

14 Yeah. I believe DEQ, DNR, DOTD, Fisheries and
15 Wildlife, and Agriculture and Forestry have permanent
16 members who sit on the GIS Council, and whereas the
17 applicant can give his data in lat/long for the records
18 of the Commission, they can go via the standards that
19 are defined by the State. And most of the State
20 agencies have somebody who is on the GIS Council.

21 COMMISSIONER GIVENS:

22 Yes. Anybody that is --

23 COMMISSIONER NAMWAMBA:

24 And the standards are published on the Internet.

25 COMMISSIONER GIVENS:

26 Anyone that is active in that area right now has a
27 representative on the Council, and it's open, you know.
28 COMMISSIONER GAUTREAUX:

29 So we're suggesting that when we get the
30 information in from the applicant, we store it in that
form, or we're talking about --

COMMISSIONER GIVENS:

We should give as a part of the application the
pertinent parts of those Metadata Standards so that
they can give you the information in that format and we
would know that it's reliable. We don't want the
lat/long that's over in Texas or Illinois or somewhere
else like we used to see when people were having to
interpolate, and George is grinning because he's seen
that before on a situation on that. We want to make
sure that we have some accuracy of the data that we put
in. There was considerable data discussion this
morning in the work group that I was in about the
importance and need for a database for all of this. I
think we ought to go ahead and -- it's not that much
extra work if you put it in up front, and we'll have a
lot of pay off on the backside.

COMMISSIONER ASPRODITES:

Are you suggesting that the Rules of Procedure
specify how it would be submitted in that GIS context
with the specific language you said?

COMMISSIONER GIVENS:

The Rules don't have to have it, I don't believe,
Philip, but I think that the rules should say that we
establish the format, the application and everything.
That way it gives the Staff the ability to sit down and

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4 compare apples and apples or dot their I's and T's and
5 make sure that we have it.

6 COMMISSIONER ASPRODITES:

7 That's fine. I agree.

8 COMMISSIONER GAUTREAUX:

9 Any other comments or questions about the
10 emergency rules?

11 (No response.)

12 Thank you, Tony. And what we'll do is, pending on
13 when our next meeting is, discuss them further, and
14 also depending upon the comments from the Advisory Task
15 Force and members of the public, I guess, determine
16 when we're passing them. We certainly want to not wait
17 too long, but we don't want to move forward without
18 feeling confident that we have a good thing to move
19 forward with. Thank you.

20 At this point, as I mentioned at the Ground Water
21 orientation meeting, I'm going to put on every
22 Management Commission agenda item a specific comment
23 period for our Advisory Task Force members. And at
24 this point, and please come to the mike when you speak,
25 if you have any comments about the Scope of Services or
26 Draft Emergency Rules, and I guess just to avoid
27 hopping around, first we'll do the Draft Scope of
28 Services. If anyone in the Advisory Task Force has any
29 comments about the Scope of Services?

30 (No response.)

No? Thank you. The Emergency Rules for
Designation? I'm sorry, Mike. I'm sorry. Did I miss
you on Scope of Services, or is this Emergency Rules?
Mike Wascom.

MR. WASCOM:

Emergency Rules.

COMMISSIONER GAUTREAUX:

Come on up, Mike. Mike Wascom.

MR. WASCOM:

Mike Wascom, Advisory Panel. I just wanted to ask
the Commission to -- I have an older copy, but on page
2 of the draft rules, "Application Procedure, Who May
Apply," I wanted to ask the Commission to consider that
members of the general public would be able to file a
petition for calling a public hearing. The way it
reads is, "any person owning property, a water well, or
utilizing water from a well affected by any manner
within the jurisdiction of the Commission," and
certainly, that's going to cover most people. But as a
member of the public, I might ask the Commission to
consider, or the Staff, to clarify that any person
affected by any manner within the jurisdiction of the
Commission shall have the right to petition for a
public hearing. It just broadens the universe of
people who can ask for a public hearing. But I realize
that the people who are mentioned here definitely have
an interest, but also, I don't want to exclude the
general public. That's just a request. Thank you.

COMMISSIONER GAUTREAUX:

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4 Thank you, Mike. Are there any other comments
5 about the -- Steve?

6 MR. LEVINE:

7 I'm Steve Levine, and I'm on the Task Force for
8 the Association of Public Utilities. When we were
9 discussing the Emergency Rules, I think I heard Tony
10 say that the judicial review provision was stricken at
11 that. And the reason for that was that that topic is
12 covered by the Act. Is that what I heard?

13 COMMISSIONER GAUTREAUX:

14 Uh-huh.

15 MR. LEVINE:

16 And what is the venue going to be for judicial
17 review of actions, whether Emergency Rules or others,
18 by the Commission?

19 COMMISSIONER ASPRODITES:

20 The attorneys would have to answer that. Anybody
21 want to answer that? Any attorneys here want to answer
22 that?

23 MR. MARCHAND:

24 The review would be provided --

25 COMMISSIONER GAUTREAUX:

26 Come speak in the mike, Jim, please.

27 MR. MARCHAND:

28 Jim Marchand with the House Environment Committee.
29 The Administrative Procedure Act provides that if you
30 have an adjudicated hearing either required by the
constitution or by the statute, which we have here,
then there is an appeal right. It's an appeal right
for de novo review by the courts. In this case we
don't specify in the Act where that appeal venue is, so
some ways to clarify that might be that because the
Commission is part of the Office of Conservation which
is venued in Baton Rouge, that would be one venue that
would be available. However, because it's not specific
in the Act, if a party felt -- which objected to the
ruling of the committee, if that ruling dealt with a
critical ground water area in Union Parish, or wherever
it is, they may have an argument that they could appeal
de novo to -- in Union Parish, or wherever the critical
ground water area was.

COMMISSIONER GAUTREAUX:

Thank you, Jim.

MR. LEVINE:

Steve Levine, again. Thanks, Jim, for that
clarification. As a Task Force member and a public
member, I would just like to make a comment that there
is some rationale that would suggest that there should
be a single venue, and that that venue should be the
19th JDC, which is the venue that has been set forth by
the Legislature, for example, for judicial review of
DEQ permitting actions.

COMMISSIONER ASPRODITES:

I thought attorneys had to wear coats and ties.

COMMISSIONER GAUTREAUX:

Thank you, Steve. Are there any other members of

the Advisory Task Force that would like to comment on the Emergency Rules? Brad?

MR. HANSON:

I'm Brad Hanson, Louisiana Geological Survey. I don't know that it's a comment, perhaps it's more of a question. I was under the impression that the Commission or the Commissioners or the members of this body would be requesting critical water status for certain regions. Is this not the case? I mean, I understand that others can make that request, but what happens when the science dictates that we have certain areas that would meet the criteria, either science generated by the USGS or by ourselves or by some other third party? How does that work?

COMMISSIONER GAUTREAUX:

Well, as I recall from the Act, it's triggered by the request for a critical ground water area, but I would imagine if there are areas that the science shows as having problems, I can't imagine that there would not be a party willing to come forward and make that request. Perhaps even the scientist. Philip, do you have any comment?

COMMISSIONER ASPRODITES:

I thought the Commission could always go forward and act.

COMMISSIONER GAUTREAUX:

So if we get --

COMMISSIONER ASPRODITES:

It's simply expanded to let other parties come in and petition if they have the information, but that doesn't preclude the Commission, is that correct, from going forward, which I think is how it really started. The idea was that the Commission would move forward, but we honestly thought it would be a good idea to expand it to other parties. Like, the Sparta group is already out there, or your group is already out there that has the information, let them come forward rather than waiting -- asking the Commission to start from scratch putting that information together. So you're correct. It works both ways.

MR. HANSON:

So the science -- I mean, we could approach it from the Advisory Task Force, of the Advisory Task Force coming before the Commission and suggesting this and da, da, da.

COMMISSIONER ASPRODITES:

Right.

COMMISSIONER GAUTREAUX:

Thank you.

COMMISSIONER NAMWAMBA:

Is that empowerment stipulated in writing?

COMMISSIONER GAUTREAUX:

That the Commission may?

COMMISSIONER NAMWAMBA:

That the Commission can take an initiative on its own with furnished scientific data?

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4 COMMISSIONER ASPRODITES:

5 It's in the statute.

6 COMMISSIONER NAMWAMBA:

7 It's in the statute. Just making sure.

8 COMMISSIONER GAUTREAUX:

9 Are there any other comments from the Advisory
10 Task Force regarding the Emergency Rules?

11 (No response.)

12 No? Okay, general public? We'll open it to the
13 general public. Anyone else have any comments or
14 questions?

15 (No response.)

16 No? All right. Well, let's move on to the next
17 item setting the -- well, new business. Mr. Durrett,
18 would you like to say anything?

19 COMMISSIONER DURRETT:

20 Well, I more or less gave you my report a while
21 ago, but on July 27th, the Sparta Commission voted
22 unanimously to ask this Commission to declare the
23 Sparta a critical ground water area. We're awaiting
24 the Rules and Regulations by which we are to proceed
25 with that and at such time we will proceed.

26 COMMISSIONER GAUTREAUX:

27 Thank you. I'd like to mention an item of new
28 business. We've mentioned surface water a little
29 earlier today, and I'd like to put in a plug for the
30 Coastal Summit. I see the Staff of the Governor's
Office of Coastal Activities has beat me down here and
put flyers on the table. So this Summit will be -- it
will take a look at the question of, you know, we know
we must restore our coastal wetlands. We do think we
have the scientific capability to restore our coastal
wetlands, but how do we restore them given that we're
looking at a price tag of approximately 14.5 billion,
and that's probably on the low side. So this will be
more than -- instead of the technical question that you
typically find at some meetings, such as a diversion
here or this technique here or a project here, this
will be how do we work together to move to that next
level of coastal restoration. So I'd encourage anyone
that can attend on August 15 at Pennington Center in
Baton Rouge to do so. It will be an important
discussion.

Are there any other new business items among the
members of the Commission?

COMMISSIONER ASPRODITES:

Set a date for your next meeting.

COMMISSIONER GAUTREAUX:

We'll move on to setting a date for the next
meeting. Now, our travelers, we won't do this Monday
morning. We'll try to set an afternoon meeting then.
That seems to work better for the people who have to
travel a distance. How about -- the Coastal Summit is
the 15th, so two weeks from here. How about we can do
the 16th or 17th, the end of next week or early in the
week of the 20th.

COMMISSIONER GIVENS:

Karen?

COMMISSIONER GAUTREAUX:

Yes, Dale.

COMMISSIONER GIVENS:

I'll be out the 20th through the day after Labor Day. I can always have Steve come in my place if --

COMMISSIONER ZAUNBRECHER:

Do you -- excuse me -- do you anticipate it to be a long meeting?

COMMISSIONER GAUTREAUX:

It depends on all of you.

COMMISSIONER ZAUNBRECHER:

I have the public come in Thursday and Friday.

COMMISSIONER GAUTREAUX:

The 16th and 17th. Okay. What is ten --

COMMISSIONER DURRETT:

What about two weeks from today?

COMMISSIONER GAUTREAUX:

I was just about to say -- well, that's -- Dale will be out that entire week. That will be the 21st.

COMMISSIONER ASPRODITES:

Do I hear a motion to approve the Rules of Procedure?

COMMISSIONER GAUTREAUX:

We probably don't want to go off three weeks.

COMMISSIONER NAMWAMBA:

Karen, is it possible to have it on either Monday, Wednesday or Friday?

COMMISSIONER ASPRODITES:

What about -- is next --

COMMISSIONER GAUTREAUX:

Monday, Wednesday or Friday?

COMMISSIONER ASPRODITES:

So next week y'all have your summit you said?

COMMISSIONER GAUTREAUX:

Coastal Summit is on Wednesday, and Linda has a commitment on Thursday.

COMMISSIONER ZAUNBRECHER:

I can come on Thursday afternoon. I mean, if that's a -- but Namwamba can't be here on Thursday.

COMMISSIONER ASPRODITES:

How about Thursday afternoon?

COMMISSIONER GAUTREAUX:

Thursday afternoon? That's not good for you; is it?

COMMISSIONER NAMWAMBA:

Those are my two -- Tuesday and Thursday are my teaching days, and it's kind of painful.

COMMISSIONER GAUTREAUX:

All right, Dale, you've volunteered to send Steve. What do the commitments look like on Monday the 20th? Monday the 20th, the afternoon. Is that bad? Monday the 20th is bad?

COMMISSIONER ASPRODITES:

That's fine.

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4 COMMISSIONER SPICER:

5 We're going to have to probably just select a
6 date.

7 COMMISSIONER ZAUNBRECHER:

8 No, I understand, we'll have to do it. I
9 understand.

10 COMMISSIONER GAUTREAUX:

11 Let's just do Monday the 20th. Sorry, Linda.

12 COMMISSIONER DURRETT:

13 What time?

14 COMMISSIONER GAUTREAUX:

15 Let's say 1:30.

16 COMMISSIONER ASPRODITES:

17 What date are you driving at?

18 COMMISSIONER GAUTREAUX:

19 The 20th, Monday the 20th.

20 COMMISSIONER DURRETT:

21 Yeah, I'll be -- anytime after 1:00. It's about a
22 four-hour drive.

23 COMMISSIONER ASPRODITES:

24 So you have 30 minutes to go to lunch before you
25 come here.

26 COMMISSIONER GAUTREAUX:

27 And we'll make sure --

28 COMMISSIONER DURRETT:

29 1:30 on the 20th.

30 COMMISSIONER GAUTREAUX:

1:30 on the 20th.

COMMISSIONER BOLOURCHI:

Karen, are you going to be meeting right here?

COMMISSIONER GAUTREAUX:

Let's try, if possible, to get the Conservation
Hearing Room -- I'm sorry, the Mineral Board Hearing
Room across the way. It's a little easier. Of course,
we're all together like this. Okay, but we'll try for
the Conservation Hearing Room. If not, we'll get this
room, and if this doesn't work, we'll publish the
location and let you know. Thank you.

CERTIFICATE

I, SUZETTE M. MAGEE, Certified Court Reporter, do hereby certify that the foregoing hearing was held on before the Honorable Karen Gautreaux, Chairperson, on August 7, 2001, in the Conservation Hearing Room, Baton Rouge, Louisiana; that I did report the proceedings thereof; that the foregoing pages, numbered 1 through 58, inclusive, constitute a true and correct transcript of the proceedings thereof.

SUZETTE M. MAGEE, CCR #93079
CERTIFIED COURT REPORTER